

ESTTA Tracking number: **ESTTA515204**

Filing date: **01/09/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Lacoste Alligator S.A.		
Entity	Corporation	Citizenship	Switzerland
Address	8 rue Muzy Geneva, CH-1211 SWITZERLAND		

Attorney information	David Ehrlich Fross Zelnick 866 UN Plaza New York, NY 10017 UNITED STATES ehrllich-docket@fzllz.com Phone:212 813-5920
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Applicant Information

Application No	85679704	Publication date	12/18/2012
Opposition Filing Date	01/09/2013	Opposition Period Ends	01/17/2013
Applicant	Shark Eyes Inc 2240 E. Washington Blvd Los Angeles, CA 90021 UNITED STATES		

Goods/Services Affected by Opposition

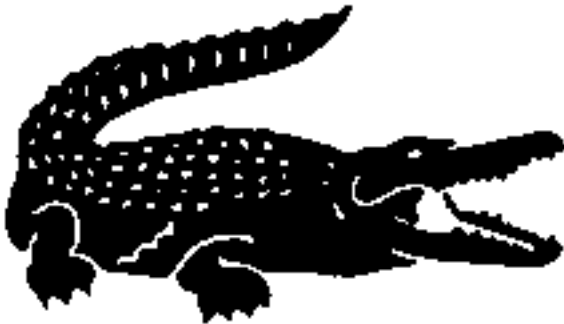
Class 009. First Use: 2011/06/12 First Use In Commerce: 2011/09/14
All goods and services in the class are opposed, namely: Eyewear, namely, sunglasses, eyeglasses and ophthalmic frames and cases therefor

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Section 1 invalidity due to lack of use for some claimed goods

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1206000	Application Date	01/28/1980
Registration Date	08/24/1982	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1979/03/25 First Use In Commerce: 1979/03/25 Eyeglasses, Sunglasses, and Cases for Both

Attachments	73247943#TMSN.gif (1 page)(bytes) SHARK EYES - Notice of Opposition (F1149633).PDF (3 pages)(92235 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/dwe/
Name	David Ehrlich
Date	01/09/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Serial No. 85/679704

-----X	:	
LACOSTE ALLIGATOR S.A.,	:	Opposition No.
	:	
Opposer,	:	
	:	
- against -	:	
	:	
SHARK EYES INC.,	:	
	:	
Applicant.	:	
-----X	:	

NOTICE OF OPPOSITION

Opposer believes that it will be damaged by registration of the mark shown in the above-described application, and hereby opposes the same. As grounds of opposition, it is alleged that:

COUNT I – Likely Confusion – Section 2(d)

1. Opposer owns a design mark of a crocodile or alligator for sunglasses and other eyewear. Opposer, through licensees, has used this mark in the U.S. since before Applicant's filing date and before Applicant's claimed first use dates in 2011.

2. Opposer is the owner of U.S. Trademark Reg. No. 1,206,000 for a crocodile or alligator design mark for those goods. This registration is valid, fully in force and incontestable.

3. Applicant filed the application at issue on July 17, 2012, based on use since 2011, for a mark consisting of the words KIDS R CUTE in colors plus a design mark consisting of a green alligator or crocodile, for the same and closely related goods, including sunglasses, eyeglasses, ophthalmic frames and cases therefor. Upon information and belief, Applicant has no basis to claim an earlier priority than Opposer.

4. Applicant's mark so resembles Opposer's mark as to be likely, when applied to the goods of Applicant, to cause confusion, or to cause mistake, or to deceive, in violation of Lanham Act Section 2(d).

5. Opposer would be injured by the granting to Applicant of a certificate of registration for the trademark for which registration is sought because this mark would tend to damage Opposer's goodwill in its mark.

6. By reason of the foregoing, Applicant is not entitled to the registration of the trademark sought by its application.

COUNT II – Invalidity – Section 1

7. Upon information and belief, the only goods actually produced and sold by Applicant bearing the mark of the application are sunglasses.

8. Upon information and belief, the mark of the application was not in use, on the filing date, July 17, 2012, for the other goods in the application, "eyeglasses and ophthalmic frames and cases therefor." Accordingly, the claim of use in the application for the mark for those goods was false and the application is invalid for those goods.

9. Therefore, whether or not confusion is likely, the application is invalid for all other goods other than "eyewear, namely, sunglasses."

WHEREFORE, Opposer respectfully prays that this opposition be sustained and that the application be denied.

Dated: New York, New York
January 9, 2013

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

David Ehrlich
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New York, New York 10017
(212) 813-5900
Opposer's Ref: LCA USA TC-13/00294

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by First Class mail on the Applicant, Shark Eyes Inc, Attn: Joel Dime, at 2240 E. Washington Boulevard, Los Angeles, California 90021, on January 9, 2013.



David Ehrlich